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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,581	04/30/2002	Mortimer M. Civan	[204622 L-2070US]	1751

23973 7590 02/09/2007
DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

EXAMINER

JAGOE, DONNA A

ART UNIT	PAPER NUMBER
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1614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
30 DAYS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/009581

EXAMINER

ART UNIT

PAPER

20070205

DATE MAILED:

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Commissioner for Patents

The reply filed on July 17, 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): an election of species of A-E. See 37 CFR 1.111.

Applicant's election without traverse of the group I invention in response to the office action dated February 21, 2006, claims 94-107 in the reply filed on March 22, 2006 is acknowledged.

Applicant was also presented with an election of species in that same office action, to elect one of each of A-E. In the reply dated March 22, 2006, applicant incorrectly elected one genus from the species election. Applicant was again instructed to elect one species of each genus listed as A-E. In the reply dated July 17, 2006, applicant does not appear to understand the election. The purpose of an election of species requirement is to simplify the search and issues considered during prosecution, and that because this is so, the ultimate allowance of a generic claim will encompass all additional species within the scope of the allowed genus. Stated alternatively, the purpose of an election of species requirement, as opposed to a restriction between claim groups, is to reduce the burden on the examiner during prosecution only; a full search is merely postponed until allowance of the generic claim. Applicant states that it is puzzling that the examiner has asked for an election of one of each of species A-E because claims encompassing species C, D and E are not currently in prosecution. The examiner asks that applicant's representative take another look at the claims.

In the office action dated August 11, 2005, a non-final rejection was issued over claims 1, 38-55, 68, 92 and 93. In response to the non-final rejection, applicant cancelled all the claims and submitted new claims 94-116. At this time, the examiner issued a restriction (2 groups) and an election of species for one of each of species A-E. The examiner is still waiting for the election of species to be made.

The declaration of Dr. Civan is noted and it is noted that he claims that "neither timolol nor any other beta blocker is considered to be an NHE inhibitor". However, page 13 of the instant specification clearly spells out what is included by the term NHE inhibitor. It includes "beta blockers, e.g. timolol or amiloride" (page 13, lines 11-28).

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donna Jagoe whose telephone number is (571) 272-0576. The examiner can normally be reached on Monday through Thursday from 9:00 A.M. - 3:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on (571) 272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

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Ardin H. Marschel 2/5/07
ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER